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APPLICATION OF XIT	§	PUBLIC UTILITY COMMISSION
TELECOMMUNICATION &	§	
TECHNOLOGY, LTD. FOR	§	OF TEXAS
DESIGNATION AS AN ELIGIBLE	§	
TELECOMMUNICATIONS CARRIER	§	
AND ELIGIBLE	§	
TELECOMMUNICATIONS PROVIDER	§	

ORDER NO.3
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
ELIGIBLE TELECOMMUNICATIONS PROVIDER

Procedural History

On January 6, 2009, XIT Telecommunication & Technology, Ltd. (XT&T or the Company) filed a combined application for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418, as well as designation as an eligible telecommunications provider (ETP) pursuant to PURA¹ § 56.023 and P.U.C. SUBST. R. 26.417. No parties sought intervention in this proceeding. In addition, XT&T sought a waiver of P.U.C. SUBST. R. 26.417(c)(1)(A) so that the ETC and ETP applications may be processed simultaneously. XT&T is a local exchange carrier certified to provide telephone exchange service and exchange access in the entire State of Texas. XT&T seeks ETC and ETP designation in the Hereford wire center (HRFRTXHF) in the service area of a non-rural incumbent local exchange company, Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas).

On January 8, 2009, the Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, motions to intervene, and published notice in the *Texas Register*. Notice was published in the *Texas Register* on January 23, 2009. The Applicant provided a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.417(f)(2)(A)(i) and

¹ The Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001–66.016 (Vernon 2007 & Supp. 2008) (PURA).

26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later. Therefore, the earliest effective date for this proceeding is February 23, 2009.

On February 18, 2009, Commission Staff filed its final recommendation requesting administrative approval of the application for ETC and ETP status for XT&T based on the following:

Designation as Eligible Telecommunications Carrier

To qualify for ETC status, a carrier must meet the following criteria:²

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following services³ using its own facilities or a combination of its own facilities and the resale of another carrier's services:⁴
 - (a) voice grade access to the public switched network;
 - (b) local usage;
 - (c) dual tone multi frequency signaling or its functional equivalent;
 - (d) single party service or its equivalent;
 - (e) access to 911 or enhanced 911;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance; and
 - (i) toll blocking for qualifying low income customers; and
 - (j) toll control for qualifying low income customers.
3. The carrier must advertise the availability of the above services and charges for the services in a media of general distribution.⁵
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁶

² 47 C.F.R. § 54.201(b)-(d).

³ 47 C.F.R. § 54.101.

⁴ 47 C.F.R. § 54.201.

⁵ 47 C.F.R. § 54.201.

Designation as Eligible Telecommunications Provider

To qualify for ETP status a carrier must meet the following criteria:

1. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(I) requires carriers applying for ETP status to meet the definition of a telecommunications provider as defined in PURA § 51.002(10). XT&T meets this definition.

2. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to show that they have been granted ETC status for federal universal service support pursuant to FTA § 214(e). ETC and ETP designations are being handled concurrently in this docket.

3. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires carriers to specify the small or rural incumbent local exchange company (ILEC) service area in which they propose to be an ETP. XT&T seeks designation in the Hereford wire center of the non-rural carrier AT&T Texas.

4. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires applicants for ETP status to show that they offer the designated services defined in P.U.C. SUBST. R. 26.403 throughout the Texas High Cost Universal Service Provider or small and rural ILEC service area for which the carriers seek ETP status. The designated services required for ETP status are:

1. flat rate, single party service, including primary directory listings;
2. tone dialing;
3. access to operator services;
4. access to directory assistance services;
5. access to 911 service when provided by local authority;
6. dual party relay service;
7. ability to report service problems seven days a week;
8. availability of annual local directory;
9. access to toll services; and
10. Lifeline and Link Up services.

5. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) also requires applicants to assume the obligation to provide the services required under P.U.C. SUBST. R. 26.403 to any customer.

⁶ 47 C.F.R. § 54.405.

XT&T states that it meets and assumes the responsibility to offer the basic services defined in P.U.C. SUBST. R. 26.403 to all customers in its exchanges.

6. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(IV) requires that applicants show they offer the designated services through a combination of its own facilities and the resale of other provider's facilities. Switching and local loop distribution facilities will be provided by XT&T in those areas where service is provisioned through XT&T's own facilities.

7. P.U.C. Subst. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants to show that they have offered continuous service that meets the quality of service standards in P.U.C. SUBST. R. 26.52 - 26.54, and that they offer Lifeline and Link-Up services in compliance with P.U.C. SUBST. R. 26.412. XT&T meets these requirements.

8. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(VII) requires applicants to advertise the availability of, and charges for, the designated services using media of general distribution. XT&T meets this requirement.

9. P.U.C. SUBST. R. 26.417(d)(2) provides that the Commission may designate an additional ETP in a small or rural ILEC study area if it is in the public interest. XT&T asserts that the ETC and ETP designation will be in the public interest consistent with P.U.C. SUBST. R. 26.417(d)(2).

XT&T has also committed to offering the required designated services at a rate not to exceed 150% of the ILEC's tariffed rate in the same designated areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

Commission Staff analysis of the application concludes that XT&T meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

Ordering Paragraph

In accordance with Commission Staff's recommendation and for all the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, XT&T's application for

ETC designation is **APPROVED**. Pursuant to PURA § 56.023 and P.U.C. SUBST. R. 26.417, XT&T's application for ETP designation is **APPROVED**.

SIGNED AT AUSTIN, TEXAS the 23rd day of February 2009.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE